



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,453	04/16/2004	Stephen K. Pinto	17146-0009001	1046
26161	7590	09/21/2009		
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER FREJD, RUSSELL WARREN	
			ART UNIT 2128	PAPER NUMBER
			NOTIFICATION DATE 09/21/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/826,453	Applicant(s) PINTO ET AL.	
	Examiner Russell Frejd	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,7,8,10-14,17 and 18 is/are allowed.
- 6) ☒ Claim(s) 2-6,9,15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/2/09; 7/14/09</u> . | 6) <input type="checkbox"/> Other: _____ |

Examination of Application 10/826,453

1. Claims 1-18 of application 10/826,453, filed on 16-April-2004, are pending in the application. This communication is in response to the amendment received 16-April-2009. The examiner wishes to thank applicant for the approval (the telephone interview with David Feigenbaum (No. 30,378) on 4-September-2009) to incorporate via examiner's amendment several minor changes to claims 2, 6, and 9, in order to overcome the discussed 35 USC 101 and 112, 2nd deficiencies noted by the examiner. Due to the discovery of a new prior art document that is applicable to claims 2-5, 15 and 16, as necessitated by the present amendment, the examiner is including the items discussed in the previous conversation, for action by applicant.

Claim Rejections under 35 U.S.C. § 112, 2nd Paragraph

2. Claims 2, 6, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following is a list of the specific rejections:

Claim 2 The phrase "of segments of" [line 5] (amended out of the claim by the present amendment), should be rewritten to re-insert one "of".

Claim 6 The term "of predictive models" [line 12] should be "of the predictive models".

Claim 9 The term "the historical data" [line 3] lacks antecedent basis.

Claim Rejections under 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2128

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.1 Claims 2-5, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by USP Application Publication 2002/0123923.

3.2 2002/0123923 discloses:

Claim 2: for a project in which a user generates a predictive model based on historical data about a customer relationship system being modeled [section(s) 0007, step(a)], automatically grouping customers into segments based on identified distinguishing characteristics of the customers in the customer relationship system [0007, step (b)], determining a significance in a difference between arithmetic means of key predictor variables associated with the respective segments [0024 (regression techniques), 0025], enabling the user to revise the generation of the predictive model based on the determined significance [0037 (decision making), 0040 (strategies)], and delivering to the customers marketing communications based on using the distinguishing characteristics the generated predictive model [0007, (identifying marketing steps based on customer-of-interest comparisons)].

Claim 3: distinguishing characteristics of the customers are identified by ranking a set of predictor attributes with respect to their predictive power for a population of customers with respect to at least one target attribute [0025, (values of similar customers)].

Claim 4: providing to the user a graphical display [deemed inherent to a computing system, see step (b): "computing"] of a potency of the predictor attributes in the grouping identifying of the segments of customers [see "assessing the ICV of the customer-of-interest comparison result"].

Claim 5: enabling the user to determine attributes associated with the data that are associated

Art Unit: 2128

with propensities of the customers, including enabling the user to prepare the historical data [0025], transform the attributes associated with the data [see “profile these segments”], and determine optimal attributes for the marketing communications [see “adjust ways to change them”].

In regard to claims 15 and 16, presenting marketing communications on portable media or through an internet protocol network is it is deemed inherent to the use of a computer for enabling a marketing department to pursue a strategy for capturing the full potential of a particular segment of customers [0024, 0025, 0037].

Allowed Claims

4. Claims 1, 6-14, 17, and 18 are deemed allowable over the prior art of record at this time, pending resolution of any rejections noted above, because the prior art does not specifically claim at least enabling the user to perform a first set of transformations of on the predictor attributes of the data, and based on the impact of the first set of transformations on a predictive power of the predictor attributes, enabling the user to determine whether to apply a second set of transformations to the predictor attributes to alter the impact on the predictive power of the predictor attributes.

5. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

Response Guidelines

6. A SHORTENED STATUTORY PERIOD FOR RESONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION, AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF

Art Unit: 2128

THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6.1 Any response to the Examiner in regard to this final action should be

directed to: Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0530 to 1400 ET, **or** the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279. Inquires of a general nature or relating to the status of this application should be directed to the TC2100 Group Receptionist (571) 272-2100.

mailed to: Commissioner of Patents and Trademarks
P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to: (571) 273-8300

Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

/Russell Frejd/
Primary Examiner AU 2128